

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA :
 :
 v. : C.A. No. 99-489ML
 :
 GERARD OUIMETTE :

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

Pending before the Court is Defendant Gerard Ouimette's Motion to Proceed In Forma Pauperis ("IFP") in connection with his Motion to Reopen his 28 U.S.C. § 2255 Motion. (Document No. 57). Defendant filed an Affidavit and a copy of his certified inmate account statement in support of his Motion.

Defendant's original 28 U.S.C. § 2255 Motion was denied on June 21, 2001. The Court of Appeals for the First Circuit denied his certificate of appealability on April 18, 2002. Although Defendant has filed motions to have his 28 U.S.C. § 2255 Motion reopened, the District Court has not issued its decision on that Motion. At this time, therefore, there is no matter pending which entitles Defendant to proceed IFP. Accordingly, I recommend that Defendant's Motion (Document No. 57) be DENIED without prejudice. If the District Court grants Defendant's Motion to Reopen this case, Defendant may refile his Motion to Proceed IFP.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within ten (10) days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review

by the District Court and the right to appeal the District Court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
April 22, 2009